IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY NINTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21844 of 2004

Between:

G.Nagaraju, S/o.Venkateswar Rao, Secretary,
Primary Agricultural Cooperatively Society Limigted, Madhavnagar,

Resident of Madhav Nagar, Nizamabad Mandal and District.

..... PETITIONER

AND

1 Primary Agricultural Cooperative Society Limited,

Madhavnagar, Nizamabad Mandal and District rep.,
by its Chairman, persons in charge Committee.
2 The Deputy Registrar of Cooperative Societies The Divisional Cooperative

Officer, Nizamabad, Nizamabad District.
3 The Joint Registrar of Cooperative Societies The District Cooperative

Officer, Nizamabad, Nizamabad District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly one in the nature of writ of Mandamus i) declaring the action of the 2nd respondent in directing the 1st respondent society through proceedings Rc.No.1567/2001, B, dated 26.6.2004 to place the petitioner under suspension as illegal, arbitrary and unconstitutional apart from being violative of Principles of natural justice and against the special by laws relating to the service conditions of the employees working in primary agricultural cooperative societies; and ii) further declaring the inaction of the respondents 1 and 2 in not considering the petitioner's representation dated 24.7.2004, wherein he has clearly stated that the allegations of misappropriation made against him are false and that the amount has already been paid by him, is also illegal, arbitrary and unconstitutional apart from being violative of principles of natural justice;

consequently iii) set aside the orders issued by the 2nd respondent through proceedings No.1567/2001.B, dated 26.6.2004 and the consequential orders issued by the 1st respondent in Rc.No.002/Eng/2004, dated 20.7.2004 by directing the 1st respondent to take the petitioner back into service by giving all service benefits including pay and allowances and iv) pass such other order or orders as the Hon'ble Court deems fit, proper and appropriate in the circumstances of the case.

Counsel for the Petitioner:MR.NANDIGAM KRISHANA RAO

Counsel for the Respondent No.: GP FOR COOPERATION

The Court made the following :

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ORAL ORDER:

The petitioner has filed this writ petition challenging the proceedings in RC.No.1567/2001.B, dated 26.6.2004 issued by the 2nd respondent directing the 1st respondent-Primary Agricultural Cooperative Society to place the petitioner under suspension.

The learned counsel for the petitioner has contended that no enquiry is pending under Section 51 of the A.P. Cooperative Societies Act (for brevity "The Act") so as to exercise the powers conferred by the 2nd respondent-Deputy Registrar of Cooperative Societies directing the committee to place an employee under suspension and therefore, the orders passed by both the 1st and 2nd respondents are in violation of the provisions of the Act.

On the other hand, the learned Government Pleader for the respondents has contended that since an enquiry under Section 51 of Act is only a pending enquiry, the 2nd respondent is competent to issue directions to the committee to place an employee under suspension as the allegation is with regard to the misappropriation of funds of the society. Therefore, considering the nature of the case, the 2nd respondent issued proceedings to the 1st respondent directing to place the petitioner under suspension and the proceedings do not suffer from any legal infirmities so as to call for interference by this Court.

For misappropriation of certain funds, the petitioner and two others were given a show cause notice, dated 28.8.2003 directing them to appear before the 2nd respondent. In pursuance of the said notice, the writ petitioner gave an explanation, dated 10.9.2003 stating that the misappropriated funds have been credited to the Government. Admittedly, no final orders have been passed in pursuance of the explanation given by the writ petitioner.

Normally, this Court will not interfere with the suspension order pending enquiry unless it is brought to the notice of this Court that the

person, who issued the suspension order has no authority to pass such an order under Section 59(1) of the Act. During the course of enquiry, under Section 51 of the Act, if the Registrar including the Deputy Registrar is of the opinion that there is a prima-facie evidence against the employee, then he can direct the Committee pending investigation to suspend an employee. Precisely exercising the powers under sub-section(1) of Section 51 of the Act, the 2nd respondent directed the Committee to place the employee under suspension in view of the alleged serious misappropriation of the funds of the 1st respondent-society. Accordingly, the 1st respondent-society passed the orders. So the orders under challenge do not suffer from any legal infirmities so as to call for interference by this Court, however, during the course of enquiry, as the petitioner submitted an explanation on 10.9.2003, appropriate orders have to be passed on the explanation.

For the foregoing reasons, I do not find any grounds to set aside the suspension order, however, it would be appropriate to direct the 2nd respondent to pass appropriate orders in pursuance of Section 51 of the Act duly considering the explanation given by the writ petitioner, within a period of one month from the date of receipt of a copy of this order. It is needless to observe that the revocation of suspension order will be decided subject to the result of the enquiry report.

With the above observation, the writ petition is disposed of. There shall be no order as to costs.

(K.C. BHANU, J.)

29th November, 2004.

bcj

To

1 The Chairman-person-in-charge, Primary Agricultural Cooperative Society Limited, Madhavnagar, Nizamabad Mandal and District
2 The Deputy Registrar of Cooperative Societies The Divisional Cooperative

Officer, Nizamabad, Nizamabad District.
3 The Joint Registrar of Cooperative Societies The District Cooperative

Officer, Nizamabad, Nizamabad District.

4. Two CCs to G.P for Cooperation, High Court Buildings, Hyderabad(OUT).

5. Two CD copies